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Attorney Docket # 33900-56PUS

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Paul (deceased) A. MULLER et al.

Serial No.: 09/403,329

Filed: 15 October 1999

For: A Method And Device For Making A
Container Provided With A Label

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail item no. EL645965582US in an Express Mail envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on
October 26, 2000
(Date of Deposit)

Tzvi Hirshaut

Name of applicant, assignee or Registered Representative



Signature

October 26, 2000

Date of Signature

TRANSMITTAL LETTER

Box PCT

Assistant Commissioner for Patents

Washington, D.C. 20231

Attn: PCT Legal Office

S I R:

Applicant herewith submits the following documents in respect of the above-captioned National Phase PCT Application:

(a) A Substitute Declaration to Accompany Application for Patent, by an Heir;

(b) ~~1390.00~~ A check in the amount of \$1,390.00 for a four months' extension of time;


and

(c) A Response to Decision on Papers under 37 C.F.R. 1.42 and 1.44 with

Exhibit A ("Legal Memorandum of Dr. Veit Frommelt" and "Document of the Transfer of the Estate from the Princely Court of Justice" with English translation).

In the event that any additional fees or charges are deemed necessary in connection with the application at the present time, the same may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE

By: 

Tzvi Hirshaut
Reg. No. 38,732
551 Fifth Avenue
New York, New York 10176
(212) 687-2770

Dated: 26 October 2000

Attorney Docket # 33900-56PUS

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In re National Phase PCT Application of

Paul A. MULLER (deceased)

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Legal Staff
International Division

RESPONSE TO DECISION ON PAPERS UNDER 37 C.F.R. 1.42 AND 1.44

BOX PCT

Assistant Commissioner for Patents

Washington, D.C. 20231

Attn: PCT Legal Office

S I R:

This responds to the Decision on Papers under 37 C.F.R. 1.42 and 1.44 (the "Decision") mailed April 26, 2000. Applicant hereby requests a four-month extension of the original shortened statutory response period set in the Office Action of June 26, 2000. A check in the amount of \$1,390 in payment of the government fee for a four-month extension of time is enclosed herewith. Any additional fees or charges required at this time in connection with the present application may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

In the Decision issued by the PCT Legal Office, the Patent Office refused to recognize Mrs. Colette Potier-Muller as the legal representative of the deceased inventor, her late husband Paul A. Muller, because of various shortcomings in the Proof of Authority submitted pursuant to 37 C.F.R. § 1.44 noted by the PCT Legal Examiner. The Examiner noted in his Decision that:

The declaration states that Ms. Potier-Muller is "the heir of" Paul A. Muller. However, it is not clear that Ms. Potier Muller is the sole heir. The English translation of the Certificate states that "Colette Mueller" is the sole heir of "Paul Mueller". However, the difference in the names themselves (Colette Potier-Muller in the Declaration versus Colette Mueller in the Certificate) and the spelling of the names (Muller in the Declaration versus Mueller in the Certificate) have not been explained. Also, the address of Paul Muller is entirely different in the declaration than in the Certificate and the address of Colette Potier-Muller is slightly different. These differences have not been explained either. Further, the RESPONSE states that the Certificate is "from the Court of Monaco". However, there are several indications that the Certificate is from Liechtenstein: the header states FL-9490 Vaduz" (Vaduz is the capital of Liechtenstein); "Vaduz" appears next to the date "20.10.1999" in the middle of the page; the red stamp appearing on both the Certificate and the translation states "Liechtenstein"; and the Apostille states "Liechtenstein". It is not clear why the Certificate would be from a court in Liechtenstein.

The declaration does not state that Ms. Potier-Muller is the legal representation of the deceased. Applicant has also not provided any indication that a legal representative, other than Ms. Potier-Muller, was not appointed.

In addition, the declaration does not include the citizenship of the deceased inventor as required for compliance with 37 CFR 1.497(a)(3). The declaration filed 27 December 1999 states that Ms. Potier-Muller is a citizen of Switzerland and a resident of Monaco. The declaration also states that Mr. Muller was a resident of Monaco but is silent regarding his citizenship.

In response to the Examiner's remarks and to remedy any deficiencies in the previous submissions, enclosed are the following additional documents which replace the original executed Declaration dated November 4, 1999 and which supplement the Certificate from the Princely Court of Justice of Liechtenstein dated October 20, 1999 (the "Certificate"):

009207-6250460

- (i) Substitute Declaration of Colette Potier-Muller dated 13 October 2000; and
- (ii) Legal Memorandum of Dr. Veit Frommelt, an attorney in Liechtenstein with an attachment entitled Document of the Transfer of the Estate and an English translation of the attachment (attached hereto as Exhibit A).

The Examiner is correct in noting that the Certificate previously submitted is from the Court in Liechtenstein but applicant's previous Response dated December 27, 1999 incorrectly indicated that the Certificate was from the Court of Monaco. We regret the error and any confusion it may have caused. Mr. Muller's estate was the subject of a probate proceeding in Liechtenstein because he had assets there.

The Substitute Declaration resolves the issue of Mr. Muller's citizenship. Mrs. Potier-Muller declares that Mr. Muller held Swiss citizenship. Moreover, Mrs. Potier-Muller has indicated on the signature line that she is also known as Colette Mueller, which answers another of the Examiner's questions as to whether Mrs. Potier-Muller and the Colette Mueller referred to in the English translation of the Certificate from the Princely Court of Justice dated October 20, 1999 are one and the same person. Mrs. Potier-Muller's maiden name was Potier (as is noted on the Certificate by the phrase "née Potier") and she at present prefers to be addressed as Mrs. Potier-Muller. However, sometimes she is just addressed by her late husband's surname Muller, which is also commonly spelled Mueller.

Another issue raised by the Examiner relates to the deceased inventor's address at the time of his death. His address was "15 boulevard Louis II, Monaco, MC-98000" as is listed correctly in the Declaration and Substitute Declaration. There is no discrepancy between the Declaration and the Certificate as to the inventor's last address. The Certificate notes that the inventor Paul A. Mueller, **formerly** was resident at FL-9497 Triesenberg, Spenni 600, but

further notes that Mr. Mueller was deceased while resident in Monaco. The Certificate indicates the address in Monaco where Mr. and Mrs. Muller lived, but, due to a typographical error by the Court, indicated the building number as "5" boulevard Louis II, instead of the correct address of "15" boulevard Louis II.

Finally, the Document of the Transfer of the Estate from the Princely Court of Justice dated 20 January 1997 (the "Document") demonstrates that Mrs. Potier-Muller is the sole heir and legal representative of Paul A. Muller. The Legal Memorandum of Dr. Veit Frommelt, a lawyer in Liechtenstein, explains the ramifications of the Document under the law of Liechtenstein. As Dr. Frommelt explains at page 1 of his Legal Memorandum, according to the Document, Mrs. Potier-Muller is the sole heir of the estate of Mr. Muller. The effect of the Document is that "all of the assets of the deceased inventor, including patent rights or any other rights have become part of the assets of Mrs. Colette Potier-Mueller. ... Mrs. Colette Potier-Mueller is not just acting on behalf of the deceased inventor as the deceased inventor's sole legal representative, but is [also] acting on her own as owner and proprietor of the deceased inventor's assets and intellectual property rights." (See page 2, paragraph e of the Legal Memorandum). The Substitute Declaration reflects Mrs. Potier-Muller's status as sole heir and legal representative.

In view of the foregoing, applicant respectfully submits that it has complied with the applicable requirements of 37 CFR 1.42, 1.44, and 1.497 and therefore requests that Mrs. Potier-Muller be recognized as the late inventor's legal representative and that the application be forwarded for examination on the merits.

If there are any remaining issues, the undersigned invites the Examiner to call him to expedite the resolution of those issues.

009207-62260460

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE

By: _____

Martin B. Pavane
Reg. No. 28,337
551 Fifth Avenue
New York, New York 10176
(212) 687-2770

Dated: 26 October 2000

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